

Allen Owen, Mayor
Eunice Reiter, Mayor Pro Tem
Jerry Wyatt, Councilmember
Barbara Gibson, Councilmember



Buddy Jimerson, Councilmember
Brett Kolaja, Councilmember
Cynthia Gary, Councilmember
Caroline Kelley, City Attorney
Frank Simpson, City Manager
Patrice Fogarty, City Secretary

CITY COUNCIL MEETING MINUTES

City Council of the City of Missouri City, Texas, met in regular session **Monday, April 6, 2009**, at the City Hall Council Chambers, Second Floor, 1522 Texas Parkway, Missouri City, Texas, at **7:00 p.m.** to consider the following:

1. ROLL CALL

Mayor Owen called the meeting to order at 7:12 p.m.

Those also present: Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson, and Kolaja; City Manager Simpson, City Attorney Kelley, and City Secretary Fogarty.

2. PLEDGE OF ALLEGIANCE

Hightower High School posted the colors and led the *Pledge of Allegiance*.

3. PRESENTATIONS AND RECOGNITIONS

Mayor Owen proclaimed April 2009 as "Child Abuse Prevention Month." The proclamation was accepted by Mr. Ron Booker. Mayor Owen proclaimed the week of April 12-18, 2009, as "National Public Safety Telecommunications Week" in Missouri City. City Manager Simpson introduced Joel Fitzgerald, the City's recently hired police chief. Mayor Owen acknowledged the Finance Department's *Distinguished Budget Presentation Award* received from the Government Finance Officers' Association for the 21st consecutive year. Budget Manager Cynthia Conley received the award on behalf of the Finance Department. Assistant City Manager Bill Atkinson discussed the City's Code Enforcement Program and revealed the top six City violations. Beginning in mid-May 2009, violators found committing those violations will be issued a citation to court. The City will mount a communications campaign prior to that time by way of utilizing several communication outlets such as MCTV Channel 16, print and electronic media, and HOA communications. The violations are as follows: high grass/weeds, junked and abandoned vehicles, vehicles parked on the grass, storm damaged structures and downed fences, accumulation of garbage/trash and rubbish (including timely removal of emptied garbage cans), and pools which are not properly maintained.

4. CONSENT AGENDA

- (a) Consider approving the **minutes** of the **special** and **regular** City Council meeting of **March 16, 2009** and the **special** City Council meeting of **March 30, 2009**.
- (b) Consider authorizing Staff to purchase **sign material**.
- (c) Consider awarding a term contract for **fireworks display services**.
- (d) Consider authorizing purchase of a **tilt trailer** through **HGAC cooperative purchasing contract**.
- (e) Consider authorizing an agreement with **Earth Engineering, Inc.**, for materials testing services for the **Turtle Creek Project**.
- (f) Consider approving **change order** to the **professional services agreement** with **Aguirre & Fields, LP.**, to include construction management services for the **Turtle Creek Drive Project**.
- (g) Consider ratifying an interlocal agreement with the **Quail Valley Utility District** to **plug and cap** a **nonfunctioning** water well on the **Quail Valley Golf Course**.

Councilmember Jimerson moved to approve the Consent Agenda pursuant to recommendations by Staff. Councilmember Wyatt seconded. **MOTION PASSED.**

Ayes:	Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes:	None

Agenda item 4(b) is to authorize the purchase of **sign material** manufactured from **3M Company** in the amount of **\$31,467.75**.

Agenda item 4(c) is to award a three-year contract to **A.M. Pyrotech** for **fireworks display services** for a unit price of **\$14,900.00 per year**.

Agenda item 4(d) is to authorize the purchase of a tilt trailer from **Rush Equipment Center** through HGAC cooperative contract for the amount of **\$28,950.00**.

Agenda item 4(e) is to execute an agreement with **Earth Engineering, Inc.**, for materials testing services on **Turtle Creek Drive Project** in the amount of **\$35,794.00**.

Agenda item 4(f) is to execute a change order for design services with **Aguirre & Fields, LP** for construction phasing services on the **Turtle Creek Drive Project** in the amount not to exceed **\$43,000.00**.

Agenda item 4(g) is to execute an agreement with **Quail Valley Utility District** regarding a **nonfunctioning Water Well in the Quail Valley Golf Course** for an amount not to exceed **\$28,507.50**.

5. APPOINTMENTS

There were no Appointments at this time.

6. AUTHORIZATIONS BY COUNCIL

- (a) Consider awarding a contract for the **Phase II expansion** of the **Steepbank/Flatbank Wastewater Treatment Plant**.

Councilmember Kolaja stepped away from the City Council meeting at 7:38 p.m.

Director of Public Works/City Engineer Elmer stated the construction of the Steepbank/Flatbank Wastewater Treatment Plant is necessary due to growing demand on the wastewater treatment system. After reviewing the bids submitted, Staff recommended the contract be awarded to the lowest responsible bidder, Industrial TX Corp., with a total bid amount of \$5,230,040.00.

Councilmember Gary moved to award a contract for the **Phase II expansion** of the **Steepbank/Flatbank Wastewater Treatment Plant** to **Industrial TX Corp.** Councilmember Gibson seconded. **MOTION PASSED.**

Ayes:	Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary and Gibson
Noes:	None
Absent:	Councilmember Kolaja

Councilmember Kolaja returned to the City Council meeting at 7:40 p.m.

- (b) Consider authorizing the City Manager to negotiate and execute an **engineering services agreement** for design of **intelligent traffic systems (ITS)**.

Director of Public Works/City Engineer Elmer stated an intelligent transportation system (ITS) is necessary for enabling City-wide sequencing and control of all City signals. Upon evaluation, Walter P. Moore and Associates was determined to be the most qualified firm by the Consultant Selection Committee, based on Staff's recommendation, for an amount not to exceed \$335,706.00. The firm will be responsible for the following: preliminary design, design development, engineering design, surveying, geotechnical report, bid specifications, final design and construction phase engineering.

Mayor Pro Tem Reiter moved to authorize the City Manager to negotiate and execute an **engineering services agreement** for design of **intelligent traffic systems (ITS)**. Councilmember Gary seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,
Jimerson, Gary, Gibson and Kolaja
Noes: None

- (c) Consider declaring default by **Ainbinder Company** in the **Economic Development Grant Agreement dated May 15, 2006.**

First Assistant City Attorney Smith stated Ainbinder Company has requested agenda item 6c be deferred at this time in order to fully develop a presentation for City Council.

Councilmember Wyatt moved to postpone the default by **Ainbinder Company** in the **Economic Development Grant Agreement dated May 15, 2006.** Councilmember Gibson seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,
Jimerson, Gary, Gibson and Kolaja
Noes: None

7. PUBLIC COMMENTS

Mayor Owen noted the following comments to any and all citizens who wish to address Council during public comments. "Citizens who wish to address the City Council about items on the agenda which are scheduled for Council action will have **five minutes** to express their positions. State Law prohibits the Mayor and the members of the Council from commenting on any statement or engaging in dialogue without an appropriate agenda item being posted in accordance with the Texas Open Meetings Law. Comments should be directed to the entire Council, not individual members. Engaging in verbal attacks or comments intended to insult, abuse, malign, or slander any individual shall be cause for termination of speaking privileges and expulsion from Council Chambers."

Bill G. Tompkins, 3510 Plum Brook Ln., Missouri City, Thunderbird West Subdivision, expressed his increased concerns regarding incoming traffic on Hampton Drive for the Lowe's property.

8. PUBLIC HEARINGS

- (a) A public hearing to receive comments for or against the **Missouri City Police Department's** application for a Justice Assistance Grant from the **Department of Justice** to fund the purchase of Tasers, equipment and training.

The public hearing opened at 7:48 p.m. Captain Bothell stated the Missouri City Police Department wishes to seek grant funding from the Department of Justice (DOJ). The DOJ has allocated \$77,159.30 to Missouri City for law enforcement purpose. The Missouri City Police Department currently has no tasers and is seeking funding for 84 handheld tasers, replacement cartridges, training cartridges, replacement batteries, USB download kits and the associated training. With no further comments, the public hearing closed at 7:51 p.m.

Councilmember Gibson moved to close the public hearing regarding the **Missouri City Police Department's** application for a Justice Assistance Grant from the **Department of Justice** to fund the purchase of Tasers, equipment and training. Councilmember Gary seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,
Jimerson, Gary, Gibson and Kolaja
Noes: None

Mayor Pro Tem Reiter moved to suspend the rules and take agenda item 11b out of order. Councilmember Kolaja seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt,
Jimerson, Gary, Gibson and Kolaja
Noes: None

See agenda item 11b for action taken by City Council.

9. PUBLIC HEARINGS AND CONSIDERATION OF ZONING ORDINANCES

- (a) Public hearing to receive comments for or against a request by Brendan McEntee of McEntee Engineering and Design, Inc., to amend Ordinance O-08-20 pertaining to PD, Planned Development District #70 to add an approximate 1.54 acre tract of land into the overall PD development and to allow for deviations from the City's Zoning Ordinance, including architectural design standards for the outparcel tracts; providing for severability; and to **consider the ordinance on the first of two readings**. The 1.54 acre tract of land is located northeast of the intersection of State Highway 6 and Murphy Rd., west of the new Lowe's building.

The public hearing opened at 7:52 p.m. Director of Public Works/City Engineer Elmer presented. Councilmember Kolaja indicated the Director of Public Works could coordinate with the City's Police Department in order to reduce the incoming traffic on Ridgeview Dr. and West Creek. With no further comments, the public hearing closed at 8:00 p.m.

Councilmember Wyatt moved to approve the request by **Brendan McEntee of McEntee Engineering and Design, Inc.**, to amend Ordinance O-08-20 pertaining to PD, Planned Development District #70 to add an approximate 1.54-acre-tract of land into the overall PD development and to allow for deviations from the City's Zoning Ordinance **on the first of two readings**. Mayor Pro Tem Reiter seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes: None

10. CONSIDERATION OF ORDINANCES

- (a) Consider an ordinance of the City Council of the City of Missouri City, Texas, declaring the candidate for **Councilmember District B, Cynthia Lenton-Gary, and the candidate for Councilmember District D, Jon Brett Kolaja, unopposed**; declaring Cynthia Lenton-Gary, candidate for Councilmember District B, and Jon Brett Kolaja, candidate for Councilmember District D, elected; **cancelling the election for single-member Districts B and D**; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability; and to **consider the ordinance on the first of two readings**.

Councilmember Wyatt moved to declare the candidate for **Councilmember District B, Cynthia Lenton-Gary, and the candidate for Councilmember District D, Jon Brett Kolaja, unopposed**; declare Cynthia Lenton-Gary, candidate for Councilmember District B, and Jon Brett Kolaja, candidate for Councilmember District D, elected; **cancel the election for single-member Districts B and D**; and consider the ordinance on **the first of two readings**. Mayor Pro Tem Reiter seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes: None

11. CONSIDERATION OF RESOLUTIONS

- (a) Consider a resolution of the City of Missouri City, Texas, approving the submission of the **Community Oriented Policing Services Hiring Recovery Program Grant** application to the Department of Justice to fund the hiring of additional police officers; designating **Larry Capps, Police Captain**, as the authorized representative of the City for submitting such application; and containing other provisions related thereto.

Councilmember Gibson moved to approve submission of the **Community Oriented Policing Services Hiring Recovery Program Grant** application to the Department of Justice to fund the hiring of additional police officers; and designate **Larry Capps, Police Captain**, as the authorized representative of the City for submitting such application. Councilmember Kolaja seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes: None

- (b) Consider a resolution of the City of Missouri City, Texas, approving the submission of the **Edward Byrne Memorial Justice Assistance Grant** application to the Department of Justice to fund the purchase of Tasers and related equipment and training; designating **Lance Bothell, Police Captain**, as the authorized representative of the city for submitting such application; and containing other provisions related thereto.

Councilmember Gibson moved to approve the submission of the **Edward Byrne Memorial Justice Assistance Grant** application to the Department of Justice to fund the purchase of Tasers and related equipment and training; designate **Lance Bothell, Police Captain**, as the authorized representative of the City for submitting such application. Mayor Pro Tem Reiter seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Mayor Pro Tem Reiter, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes: None

12. RECEIVING OF REPORTS

City Manager Simpson congratulated Police Lieutenant Mike Berezin for his completion of the FBI National Academy. He also stated the City's employee turnover rate is down from last year.

13. CLOSED EXECUTIVE SESSION

At 8:03 p.m., Council convened in closed executive session pursuant to chapter 551 of the Texas Government Code, for one or more of the following reasons:

Texas Government Code, Section 551.072 -- Deliberation regarding the purchase, exchange, lease or value of real property: property within the Quail Valley Subdivision: golf course.

Texas Government Code, Section 551.072 -- Deliberation regarding the purchase, exchange, lease or value of real property: property within the Quail Valley Subdivision: tennis center.

Texas Government Code, Section 551.087 -- Deliberations regarding commercial or financial information that the governmental body received from a business prospect that the governmental body seeks to locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations: manufacturing prospect update.

14. RECONVENE INTO OPEN SESSION

Council reconvened into open session at 9:18 p.m. Councilmember Wyatt moved to authorize the City to enter negotiations for the purchase of the tennis center on Cypress Point. Councilmember Gary seconded. **MOTION PASSED.**

Ayes: Mayor Owen, Councilmembers Wyatt, Jimerson, Gary, Gibson and Kolaja
Noes: Mayor Pro Tem Reiter

15. ADJOURN

The meeting adjourned at 9:18 p.m.

Patrice Fogarty, City Secretary